

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ARNULFO FAUSTINO-ANAYA,

Petitioner,

v.

MELISSA ANDREWJESKI,

Respondent.

NO: 4:23-CV-5157-TOR

ORDER DENYING MOTION FOR
RECONSIDERATION

BEFORE THE COURT is Petitioner's Motion for Reconsideration. ECF No.

12. This matter was heard without oral argument. The Court has reviewed the record and files herein and is fully informed.

A motion for reconsideration of a judgment may be reviewed under either Federal Rule of Civil Procedure 59(e) (motion to alter or amend a judgment) or Rule 60(b) (relief from judgment). *Sch. Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993). "Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law." *Id.* at 1263. Whether to grant a motion for reconsideration is within the sound discretion

1 of the court. *Navajo Nation v. Confederated Tribes and Bands of the Yakima Nation*,
2 331 F.3d 1041, 1046 (9th Cir. 2003).

3 Here, Petitioner has provided a letter sent by the Supreme Court of the State
4 of Washington showing that his claims have not yet been exhausted in state court.
5 ECF No. 12 at 9-10.

6 It is abundantly clear that Petitioner is not entitled to federal habeas relief at
7 this time. According to 28 U.S.C. § 2254(b)(1)(A) “An application for a writ of
8 habeas corpus on behalf of a person in custody pursuant to the judgment of a State
9 court shall not be granted unless it appears that—[] the applicant has exhausted the
10 remedies available in the courts of the State”. *See also Rose v. Lundy*, 455 U.S. 509
11 (1982) and *Rhines v. Weber*, 544 U.S. 269 (2005). Here, Petitioner has not exhausted
12 his state court remedies.

13 **ACCORDINGLY, IT IS HEREBY ORDERED:**


14 1. Petitioner’s Motion for Reconsideration, ECF No. 12, is **DENIED**.

15 2. **No further motions shall be filed in this CLOSED case.**

16 The Clerk of Court shall enter this Order and provide copies to Petitioner.

17 DATED November 30, 2023.




THOMAS O. RICE
United States District Judge